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**TILA/RESPA INTEGRATED DISCLOSURES (TRID)
KNOW BEFORE YOU OWE
OVERVIEW AND UPDATE**

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I. Overview

A. Stated Purpose of the Integrated Disclosures

1. To promote the informed use of consumer credit by requiring disclosures about its terms and cost,
2. To ensure that consumers are provided with greater and more timely information on the nature and costs of the residential real estate settlement process, and
3. To effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs.
4. The regulation also includes substantive protections.

B. Timing of Disclosures

1. **Closing Disclosure (CD)**
 - Consumer must receive 3 business days before consummation – unless
 - Bona fide personal financial emergency – written statement by consumer – no printed forms
 - If not provided in person, the consumer is considered to have received 3 business days after it is delivered or placed in the mail.
 - Seller must receive no later than day of consummation
2. **Subsequent Changes – CD becomes inaccurate before closing:**
 - Some changes before closing require re-disclosure and a new 3-business-day waiting period
 - The Annual Percentage rate changes above APR tolerance
 - Change to loan product
 - Addition of prepayment penalty
 - Otherwise, corrected disclosure at or before consummation

C. Who Provides the Integrated Disclosures?

1. **Either Creditor or Settlement Agent may provide to borrower**
 - Creditor still liable/responsible
 - If lender permits Settlement Agent to provide, CD must still meet all Section 1026.19(f) requirements
 - Creditor “shall ensure” that the CD is provided in accordance with the requirements.

2. **Settlement Agent must prepare and provide Closing Disclosure to seller**
 - The disclosure must reflect the actual terms of the seller's transaction.
 - Disclosure must be provided to seller no later than the day of consummation.
 - If an amount changes, settlement agent must redisclose not later than 30 days after receiving info to establish the change occurred.
 - Must also provide copy of seller Closing Disclosure to creditor

II. Areas for Discussion

A. Communication between lender and settlement agent

This is the most critical piece of the equation for successful closings for your borrowers.

Let the settlement agent know who does what in your organization in regard to Loan Estimate and Closing Disclosure. Tell them how you handle the process – and how often you want updates on settlement fees and charges, debits and credits.

- How far in advance of closing will the CD be prepared and sent to the borrower?
- Will the CD be sent to the settlement agent at the same time as the borrower?
- Is there a dedicated person or department to coordinate with the settlement agent on the final CD?

B. Estimates versus final fees

Lenders express frustration with title-related fees changing between the LE and CD.

As soon as you begin communicating with the settlement agent, make sure they send you **their** list of **estimated** fees – it may be different from the list you were working from to prepare the LE.

Do you want the settlement agent to contact you during processing any time there is a new or revised fee? This will allow you to timely test for “changed circumstances” and possibly issue a revised LE to reset the tolerances to which you are held. You don’t want to find about these fee changes after you have already issued the CD.

Failure to continually update fees/charges/debits/credits throughout the process of loan approval and preparing to close has given rise to the practice of sending out an “initial CD” to get the clock running and ending up in a “black hole” – trying to reset tolerances with a new CD after the initial CD since a revised LE can no longer be issued.

Note: CFPB did not provide a resolution to this “black hole” dilemma in TRID 2.0 (as the “new rules” are being called). Instead they issued new “proposed rulemaking.”

C. Fee Names

The rule requires the names of fees to be uniform between LE and CD. Since the settlement agent doesn’t generate or see the LE, it isn’t possible for them to know what the lender chose to call fees; however, when you begin communicating with the settlement agent, work with them to coordinate your names for fees with those customarily used by the settlement agent. The settlement agent may be able to use your name, providing the names are reasonably similar and describe the same type of service/product.

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Title search: TILA/RESPA Integrated Disclosures (TRID) Know Before You Owe Overview and Update

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